

立法會
Legislative Council

LC Paper No. CB(2)2191/13-14

(These minutes have been seen
by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 13 May 2014, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** : Dr Hon Helena WONG Pik-wan (Chairman)
Hon Steven HO Chun-yin (Deputy Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon WU Chi-wai, MH
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon Tommy CHEUNG Yu-yan, SBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP

**Public Officers : Item V
attending**

Professor Sophia CHAN Siu-chee, JP
Under Secretary for Food and Health

Mr Jeff LEUNG Wing-yan
Principal Assistant Secretary for Food and Health (Food) 1

Dr LEE Siu-yuen, JP
Assistant Director (Food Surveillance and Control),
Centre for Food Safety
Food and Environmental Hygiene Department

Dr HO Yuk-yin, JP
Consultant (Community Medicine) (Risk Assessment
and Communication), Centre for Food Safety
Food and Environmental Hygiene Department

Item VI

Professor Sophia CHAN Siu-chee, JP
Under Secretary for Food and Health

Mr Christopher WONG Kwok-bun, JP
Deputy Secretary for Food and Health (Food) 1

Mr SIN Kwok-hau, JP
Assistant Director (Operations) 3
Food and Environmental Hygiene Department

Mr YUEN Ming-chi
Pest Control Officer In-charge
Food and Environmental Hygiene Department

Item VII

Professor Sophia CHAN Siu-chee, JP
Under Secretary for Food and Health

Mr Christopher WONG Kwok-bun, JP
Deputy Secretary for Food and Health (Food) 1

Mr LAU Che-wong
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Ivy CHENG
Research Officer 3

Ms Diana WONG
Research Officer 5

Dr Yuki HUEN
Research Officer 6

Mr Richard WONG
Council Secretary (2) 2

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Confirmation of minutes
(LC Paper Nos. CB(2)1459/13-14)

The minutes of the meeting held on 14 January 2014 were confirmed.

II. Information paper(s) issued since the last meeting
(LC Paper Nos. CB(2)1362/13-14(01), CB(2)1429/13-14(01) and CB(2)1429/13-14(02))

2. Members noted that the following papers had been issued since the last meeting -

(a) Administration's response to a submission dated 8 March 2014 from a member of the public expressing his concern about the progress of the issuance of Itinerant (Frozen Confectionery) Hawker Licence;

(b) Letter dated 22 April 2014 from Hon CHAN Chi-chuen regarding the presence of harmful substances in pet food; and

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- (c) Administration's response to Hon CHAN Chi-chuen's letter regarding the presence of harmful substances in pet food.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1461/13-14(01) and (02))

3. Members agreed to discuss the following three items proposed by the Administration at the next regular meeting scheduled for Tuesday, 10 June 2014 at 2:30 pm -

- (a) Supply chain of powdered formula;
- (b) Fisheries Development Loan Fund - proposed increase in the approved commitment of the loan capital; and
- (c) Supply of live cattle in Hong Kong.

4. Referring to item 11 of the Panel's list of outstanding items for discussion, the Chairman said that the Panel had passed a motion at the special meeting on 29 January 2014 urging the Administration to expeditiously identify sites for relocating the Cheung Sha Wan ("CSW") Temporary Wholesale Poultry Market to make it far away from residential areas. As the Panel would schedule a visit to CSW Wholesale Vegetable Market and CSW Temporary Wholesale Poultry Market on 27 May 2014, she suggested requesting the Administration to brief members on the progress of the study on wholesale markets at the June regular meeting. Members agreed to the Chairman's suggestion.

5. Regarding item (c) "Supply of live cattle in Hong Kong" of paragraph 3 above, Mr WONG Kwok-hing suggested inviting deputations to give views on the subject at the next regular meeting. The Deputy Chairman said that should deputations be invited to attend the meeting, he would like to suggest some organizations to be invited. The Chairman reminded members that the Panel had met with deputations when discussing with the Administration the subject of supply of live cattle in Hong Kong in the last session. After brief discussion, members agreed that deputations be invited to give views on the item "Supply of live cattle in Hong Kong" at the next meeting and requested the Deputy Chairman and Mr WONG to suggest the list of organizations to be invited. To allow sufficient time for discussion of all the items, members further agreed that the June meeting would be extended for 30 minutes to end at 5:00 pm.

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IV. Consideration of an overseas duty visit
(FS07/13-14, FS08/13-14 and IN16/13-14)

6. Members noted the fact sheets entitled "Guangdong's regulation of food exports to Hong Kong" and "Food Safety in Taiwan", and the information note entitled "Taiwan's agricultural policy" prepared by the Research Office of the Legislative Council ("LegCo") Secretariat.

7. The Chairman reminded members that -

- (a) a joint letter dated 7 February 2014 from the Deputy Chairman and Mr CHAN Han-pan proposing a duty visit to Taiwan to study its agriculture development (LC Paper No. CB(2)839/13-14(01)) was issued to members on 10 February 2014; and
- (b) at the meeting on 11 February 2014, there was also a suggestion that the Panel should conduct a duty visit to Guangdong Province to better understand the regulation and operation of registered farms which supply food such as live poultry, fish and vegetables to the Hong Kong.

8. The Deputy Chairman said that should the proposed duty visit to Taiwan be conducted, he hoped that the delegation would also have the opportunity to obtain first-hand information on the development of leisure farming and government policy in promoting agri-tourism, in addition to agricultural policy and development in Taiwan. The Deputy Chairman also informed members that the Subcommittee on Hawker Policy was also considering conducting an overseas duty visit to Taiwan and Singapore. Expressing support for the proposed visit to Taiwan, Mr CHAN Han-pan said that he would be interested in observing agricultural policy and policy to assist farmers to resume farming.

9. The Chairman consulted members' views on whether the Panel should conduct an overseas duty visit to Taiwan. While members did not express any views on the proposed visit, the Deputy Chairman, Mr CHAN Han-pan and Mr WONG Yuk-man indicated their interest to participate in the proposed duty visit. At the suggestion of the Deputy Chairman, the Chairman requested the Research Office of the LegCo Secretariat to update the information note on "Taiwan's agricultural policy" to include information on leisure farming.

Clerk

10. The Chairman said that, as Mainland was the major food source of live and fresh produce for Hong Kong, the Panel should conduct a duty visit to Guangdong Province to obtain first-hand information on regulation and procedures for supply of food to Hong Kong, inspection and quarantine

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requirements, and hygiene requirements and examination of food. The Chairman suggested that the Panel should liaise with the Administration for assistance, including making necessary arrangements with relevant authorities in the Mainland. The Chairman consulted members on her suggestion. The Deputy Chairman and Ms Cyd HO indicated that they might be interested to join the visit should it be conducted.

Clerk

11. The Chairman instructed the Clerk to liaise with the Food and Health Bureau to seek its assistance in liaising with the relevant Mainland authorities and advice on the proposed visit programme. The Panel would further consider the proposed duty visits to Guangdong Province and Taiwan when information on the proposed visits was ready and available for members' consideration.

(Post-meeting note: The updated information note on "Taiwan's agricultural policy" prepared by the Research Office of LegCo Secretariat was issued to members on 8 July 2014 vide LC Paper No. CB(2)2004/13-14.)

V. Implementation of the Nutrition Labelling Scheme
(LC Paper Nos. CB(2)1461/13-14(03) and (04))

12. At the invitation of the Chairman, Under Secretary for Food and Health ("USFH") briefed members on the implementation of the Nutrition Labelling Scheme ("the Scheme") since the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 ("the Amendment Regulation") came into effect on 1 July 2010, as set out in the Administration's information paper (LC Paper No. CB(2)1461/13-14(03)).

13. Members also noted the updated background brief entitled "Implementation of the Nutrition Labelling Scheme" (LC Paper No. CB(2)1461/13-14(04)) prepared by the LegCo Secretariat.

Implementation of the Scheme

14. Noting that the number of non-compliance cases increased from 77 in 2011 to 118 in 2013, Mr WONG Kwok-hing enquired about the reasons for such increase. He also expressed concern about the effectiveness of the Administration's enforcement actions against contravention of the labelling requirements under the Scheme. USFH responded that as at 4 April 2014, the Centre for Food Safety ("CFS") had inspected the nutrition labels of 30 552 prepackaged food products with 399 found not complying with the Scheme. Of the 399 non-compliance cases, 201 were identified by visual checking for

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not complying with the statutory requirements of the Scheme and 198 by chemical analysis for discrepancy between the nutrient contents and the claims made on the nutrition labels. Between 2012 and 2013, there had been a noticeable increase in the number of non-compliance cases where there was a discrepancy between the declared nutrient value and the value confirmed after chemical analysis. However, it was too early to draw a conclusion that there was a rising trend in the number of non-compliance cases.

15. While expressing support for the aims of the Scheme which included assisting consumers in making informed food choices and regulating misleading or deceptive labels and claims, Mr WONG Yuk-man had reservation about the risk-based enforcement approach adopted by CFS. He noted that under such an approach, CFS's enforcement work was targeted at high-risk outlets which often included small scale retail outlets. In his view, the risk-based enforcement approach was a preferential treatment to the large-scale chain stores, as these chain stores were more likely to be categorized as low-risk outlets. Mr WONG also noted that, where irregularities such as incomplete nutrition label were identified, CFS would issue a warning letter to the food trader concerned requiring actions to be taken to comply with the requirements of the Scheme within 60 days. He urged the Administration to initiate prosecution against serious and repeated offenders without waiting for 60 days after issuing warning letters.

16. Noting that CFS had not initiated any prosecution cases, the Chairman, Dr Kenneth CHAN and Dr KWOK Ka-kei questioned whether the Administration had been too lenient with the trade. Dr CHAN was concerned that issuing warning letters to non-compliant food traders did not achieve adequate deterrent effect. Dr KWOK wondered whether CFS would easily accept food traders' explanations for the discrepancy found between the actual nutrient value and the stated value on the nutrition label. The Chairman sought further information on the follow-up actions taken by the Administration against the 399 non-compliance cases, including how many cases were prosecuted.

17. USFH advised members that non-compliance cases only accounted for a small percentage of the 30 552 prepackaged food products that CFS had inspected between 1 July 2010 and 4 April 2014. The overall compliance rate was 98.69%. As regards the 399 non-compliance cases, the Administration had carried out follow-up actions according to internal guidelines. Principal Assistant Secretary for Food and Health (Food) 1 further explained that, in respect of these 399 cases, after CFS issued warning letters to the food traders concerned, the traders had either withdrawn the non-compliance products from the shelf or rectify the nutrition labels according to the statutory requirements of the Scheme. As such, no prosecution action was required.

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18. Questioning whether the Administration's enforcement actions were too lax, the Chairman requested the Administration to provide a breakdown (by type of action) of the law enforcement actions taken by the Administration against the 399 non-compliance cases. In respect of the 198 non-compliance cases which were found by chemical analysis to have discrepancy between the nutrient contents and the claims made on the nutrition labels, Dr KWOK Ka-kei requested the Administration to provide information on whether and how many of them had been laboratory tested before traders affixed nutrition labels on the pre-packaged food.

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Admin

19. Noting that CFS had launched a mobile application "Nutrition Calculator" ("NuCal") to promote the wider application of nutrition information by consumers, the Deputy Chairman urged the Administration to make NuCal more user-friendly and provide more health information for users. In response, USFH said that the Administration noted his suggestion.

Legibility of food labels

20. The Chairman, the Deputy Chairman, Mr WONG Kwok-hing, Dr Kenneth CHAN, Dr KWOK Ka-kei and Ms Cyd HO expressed similar concern that the font size of food labels were often too small to be legible. Dr CHAN said that shopkeepers and consumers would have great difficulties in getting information on food safety and allergy from food labels. Pointing out that food labels were often printed in English and very small font size, Dr KWOK doubted whether food traders intended to make food labels illegible so that consumers could not clearly understand the nutrient contents of the food items. Pointing out that there were comments in the Director of Audit's Report No. 57 that the Amendment Regulation did not have adequate provisions to ensure the legibility of the nutrition information, Ms Cyd HO questioned whether and how the Scheme could be effectively implemented without clear and enforceable requirements on the legibility of food labels.

21. In response, USFH said that the existing Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) stipulated that all prepackaged food shall be legibly labelled. CFS issued the Trade Guidelines on Preparation of Legible Food Label ("the Guidelines") in May 2012 to provide principles and examples of legible food labels for the trade's reference so as to ensure that the information on food labels would be legible to consumers. The Guidelines provided recommendations on the key elements that constituted the legibility of food labels including the font size, and CFS would continue to make use of various channels to encourage the local trade to provide legible nutrition labels according to the Guidelines. USFH further said that, if self-regulation by the trade to follow the Guidelines did not yield the desired outcome, the Administration would not rule out introducing relevant legislative amendments to further regulate the legibility of food labels.

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22. Dr Kenneth CHAN pointed out that a study conducted by CFS in collaboration with the Consumer Council in 2013 found that the nutrition labels of around 60% of the samples (63 out of 100 samples) did not follow the recommendations of the Guidelines. He asked how the Administration followed up with these cases and whether the Administration would introduce more effective measures to ensure that the trade would follow the recommendations of the Guidelines. The Deputy Chairman also made a similar enquiry about the follow-up actions taken by the Administration.

23. Assistant Director (Food Surveillance and Control), CFS, Food and Environmental Hygiene Department advised that CFS had issued warning letters to the food traders of eight food items. The food labels of five items had been rectified and three items had been withdrawn from the shelf. As for the remaining 55 food items, the condition of the labels did not warrant CFS to initiate prosecution against food traders concerned under the existing legal provision. That said, CFS would continue to follow up with the food traders and encourage them to improve their labels.

24. Expressing dissatisfaction that the Administration only required the trade to follow the Guidelines on a self-regulation basis, the Chairman, Ms Cyd HO, Dr Kenneth CHAN and Dr KWOK Ka-kei queried whether the Scheme could achieve the desired outcome without providing clear and enforceable statutory requirements on the legibility of food labels. They urged the Administration to set out a timetable requiring all traders to mandatorily follow the Guidelines and introducing the necessary legislative amendments.

25. USFH responded that the Administration currently had no timetable for legislative amendments, it would continue to monitor the implementation of the Guidelines. Following the Trade Consultation Forum held on 28 February 2014 during which CFS explained in detail the recommendations of the Guidelines, the Administration would continue to make use of various channels to encourage the trade to follow the recommendations of the Guidelines. The Administration would keep in view the effectiveness of these measures before considering legislative amendments. The Administration took note of members' views and would further study the views carefully.

26. Ms Cyd HO was dissatisfied with the Administration's response and expressed a strong view that the Scheme would not achieve the desired outcome through self-regulation of the trade. She demanded the Administration to clearly state its stance on the matter and provide a timetable on when the legibility of nutrition labels would be regulated.

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27. Dr KWOK Ka-kei noted that between 1 September 2009 when applications for the Small Volume Exemption Scheme ("SVE Scheme") commenced and 4 April 2014, a total of 54 793 SVE applications were approved by CFS. He was concerned that SVE Scheme had become a loophole in the Amendment Regulation. He urged the Administration to review the SVE Scheme with a view to tightening or cancelling the scheme.

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28. In concluding the discussion, the Chairman said that members were gravely concerned about the slow progress made by food traders in providing legible food labels and the Administration was urged to introduce relevant legislative amendments to regulate the legibility of nutrition labels. The Administration was requested to provide a written reply for the Panel before the next regular meeting regarding (a) whether and when (Remarks to LegCo Secretariat: to tally with the list of follow-up actions) the Administration would review the Amendment Regulation in this respect; and (b) whether the Administration would introduce relevant legislative amendments to regulate the legibility of nutrition labels.

VI. Anti-mosquito control, including bed bugs (LC Paper Nos. CB(2)1461/13-14(05) and (06))

29. At the invitation of the Chairman, USFH briefed members on the dengue and Japanese encephalitis vector surveillance programmes, the Anti-mosquito Campaign 2014 as well as bed bug control and prevention work taken forward by the Food and Environmental Hygiene Department ("FEHD"), as set out in the Administration's information paper (LC Paper No. CB(2)1461/13-14(05)).

30. Members also noted the background brief entitled "Mosquito and bedbug control work" (LC Paper No. CB(2)1461/13-14(06)) prepared by the LegCo Secretariat.

Anti-mosquito work

31. Mr WONG Yuk-man considered that the Administration adopted a relatively passive approach in its anti-mosquito work and urged the Administration to make continuous efforts to carry out anti-mosquito work throughout the year, particularly in those districts frequently affected by mosquito infestation including Tseung Kwan O, Lam Tin and Kwun Tong as well as communities in the vicinity of landfills. Mr WONG noted that in the 44 areas currently covered under the dengue vector surveillance programme, whenever the Area Ovitrap Index ("AOI") of a particular area reached the alert level of 20%, subscribers to the ovitrap index rapid alert system whose premises were situated within the surveillance area concerned would be

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individually notified so that occupants and management staff could promptly take preventive and control measures. He wondered whether the AOI alert level of 20% was set too high, and expressed worry that anti-mosquito work would be much delayed if control measures were taken only when AOI reached 20%.

32. USFH responded that the Administration noted Mr WONG Yuk-man's views. Assistant Director (Operations) 3, Food and Environmental Hygiene Department ("AD(Ops3)/FEHD") explained that FEHD's anti-mosquito work was carried out throughout the year. While the territory-wide Anti-mosquito Campaign 2014 was launched in three phases from February to October 2014, FEHD would undertake territory-wide thematic operations in between each phase of the campaign in order to sustain the momentum of mosquito control efforts in the local community. As regards the AOI alert level, Pest Control Officer In-charge, Food and Environmental Hygiene Department ("PCO I-c/FEHD") advised that the AOI alert level was lowered from 30% to 20% several years ago. As there had been no local cases of dengue fever over the past few years, FEHD's anti-mosquito work in this respect was considered effective. The Administration would monitor the situation and consider adjusting the alert level when there was such a need.

33. The Chairman expressed grave concern that mosquito infestation in the Kai Tak Development Area had caused nuisances to people living in the two new public rental housing ("PRH") estates (namely Kai Ching Estate and Tak Long Estate) located in the area. Noting that the port dengue vector surveillance programme started to cover the areas of Kai Tak Cruise Terminal from September 2013 onward, the Chairman questioned why the Kai Tak Development Area had yet to be covered by the community surveillance programme, and urged the Administration to step up its anti-mosquito work in the area.

34. In response, USFH advised that the locations for setting up ovitraps were selected and modified based on experience accumulated over the years. PCO I-c/FEHD further explained that -

- (a) the areas of Kai Tak Cruise Terminal were included in the port dengue vector surveillance programme, as international ports of entry should be kept free of dengue vector according to the International Health Regulations;
- (b) anti-mosquito work in the Kai Tak Development Area had since mid-2013 been included in the agenda of an inter-departmental working group coordinated by the Civil Engineering and Development Department. At the monthly meeting of the working group, FEHD officials would review anti-mosquito

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work in the Kai Tak Development Area;

- (c) the Kowloon City District Environmental Hygiene Office would conduct weekly inspection in the area of Kai Ching Estate and Tak Long Estate, and inform the Housing Department ("HD") to take follow-up action if mosquito infestation was detected; and
- (d) FEHD would regularly review the need for extending the coverage of the community surveillance programme, and take into consideration population changes in various areas.

35. Pointing out that anti-mosquito work involved various government departments, Miss Alice MAK urged the Administration to have better coordination and division of labour among departments so as to avoid over-reliance on FEHD. She also expressed concern about mosquito infestation in parks, PRH estates and Government land, which were under the purview of the Leisure and Cultural Services Department, HD, Lands Department ("LandsD") respectively, and urged these departments to step up their anti-mosquito work. She hoped FEHD would relay her concern to the departments concerned.

36. USFH and AD(Ops3)/FEHD advised that it was an established practice for FEHD to convene district anti-mosquito task force meetings with concerned departments for coordinating the work on mosquito control. Whenever AOI reached 20%, the FEHD District Environmental Hygiene Office concerned would convene district task force meetings with concerned departments/parties and provide necessary advice and assistance to them in formulating mosquito control strategies. All FEHD District Environmental Hygiene Offices would convene a special anti-mosquito task force meeting each year before the rainy season to enhance relevant departments' awareness of the importance of mosquito control in venues under their management. The last round of meetings was held in March 2014, and further meeting would be convened whenever the situation warranted.

Bedbug control

37. Noting the Administration's position that there was no known evidence which indicated that bedbug spread diseases, Mr WONG Kwok-hing and the Deputy Chairman expressed similar concern that the Administration had not put adequate resource and manpower in bedbug control. Mr WONG enquired whether and how FEHD would take follow-up actions against bedbug infestation, particularly for cases found in private places indoor in PRH estates.

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38. USFH advised that FEHD had stepped up its work on bedbug control, including (a) liaison with HD and the provision of expert advice on the handling of bedbug infestation to HD; and (b) conducting inspections on discarded furniture temporarily stored in public refuse collection points under FEHD's management, and carrying out disinfection where discarded furniture was found to have bedbug infestation. USFH also advised that bedbug problems in private places indoor could be handled by private companies that provided relevant services.

39. Expressing concern that some tenants of PRH estates could not afford private bedbug control services, Mr WONG Kwok-hing called on the Administration to provide additional assistance to under-privileged households that were bothered by the problem of bedbug infestation. The Deputy Chairman echoed Mr WONG's view and expressed concern that the problem of bedbug infestation would become more serious if HD failed to deal with bedbug infestations in private places indoor in PRH estates.

40. In response, AD(Ops3)/FEHD said that FEHD had been closely liaising with HD following an increase in the number of complaints on and requests for assistance in bedbug infestation in the summer months of 2013. A mechanism had been put in place whereby HD would conduct inspection upon receiving a complaint. For bedbug infestation found in public places in PRH estates, HD would conduct bedbug disinfection in those places. If bedbug infestations were found in private places of individual households with special needs (such as the elderly), HD would arrange additional assistance including bedbug disinfection and/or removing the infested furniture without charging any fee.

41. Mr WONG Yuk-man was concerned whether bedbugs were transported via wooden furniture made in the Mainland and enquired whether the Administration would study the source of bedbugs. The Deputy Chairman also asked whether the Administration would conduct further study on public health risks of bedbugs. USFH replied that the Administration took note of members' views and would continue to monitor the overall situation.

VII. Regulatory control on outside seating accommodation of and unauthorized extension of business area by restaurants
(LC Paper Nos. CB(2)1461/13-14(07) and (08))

42. At the invitation of the Chairman, USFH briefed members on the regulatory measures and enforcement actions implemented by FEHD against illegal extension of business area by restaurants and other food premises, as set out in the Administration's information paper (LC Paper No. CB(2)1461/13-14(07)).

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43. Members also noted the information note entitled "Regulatory control on outside seating accommodation of and unauthorized extension of business area by restaurants" (LC Paper No. CB(2)1461/13-14(08)) prepared by the LegCo Secretariat.

Enforcement actions

44. Noting that FEHD had taken follow-up actions in response to The Ombudsman's Direct Investigation Report on Regulatory Measures and Enforcement Actions against Illegal Extension of Business Area by Restaurants ("the Ombudsman's report") issued in May 2013, Mr WONG Yuk-man and Miss Alice MAK expressed support for FEHD's adoption of the recommended measures made in the Ombudsman's report with a view to enhancing the effectiveness of its enforcement actions. Pointing out that there were complaints from some members of the public about inadequate inspections taken by FEHD during weekends and public holidays, the Chairman and Mr CHAN Chi-chuen questioned whether FEHD had properly handled citizens' complaints against nuisances caused by illegal extension of business area by food premises during non-office hours.

45. USFH advised that FEHD had enhanced enforcement measures with a view to better tackling the problem, including conducting more frequent inspections, stepping up prosecution and setting up a special task force to pursue enhanced enforcement actions in Tsuen Wan. Assistant Director (Operations)1/FEHD ("AD(Ops)1/FEHD") supplemented that FEHD had regularly conducted surprise inspections on food premises during non-office hours (including night time, weekends and public holidays) in various districts based on information provided by complainants as well as intelligence collected through FEHD's inspections.

46. Noting that the situation in Tsuen Wan had improved significantly following the introduction of a special task force to pursue enhanced enforcement actions, Dr KWOK Ka-kei questioned the effectiveness of FEHD's regular inspections. Pointing out that FEHD currently only had a total of 17 staff responsible for inspecting food premises in Yuen Long, the Chairman cast doubt on whether FEHD could conduct adequate inspections in Yuen Long during non-office hours. The Chairman and Dr KWOK expressed disappointment that the Administration had yet to set up special task forces in all districts that were having similar problems.

47. USFH advised that additional resources had been earmarked for setting up additional teams under the special task force to tackle similar problems in other districts. Priority would be given to districts with more severe problem, and Yuen Long would likely be given priority. The Administration was requested to provide written information on FEHD's

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special task force that was set up to pursue enhanced enforcement actions since May 2013, including the districts currently covered by the task force and the timetable for setting up task force teams in other districts.

48. Noting that there were cases of food premises with records of repeated prosecutions, the Chairman asked whether and how FEHD could effectively deter repeated offenders. In response, USFH said that in respect of an applicant whose food business licence had previously been cancelled due to repeated illegal extension of business area, his application, or an application made by his representative, for the same type of licence in relation to the same premises would not be processed within 12 months from the date of cancellation of the licence.

49. Noting that the Ombudsman's report also made recommendations for LandsD to effectively deal with illegal occupation of Government land by restaurants, Mr Alan LEONG asked whether any follow-up actions had been taken by LandsD. AD(Ops)1/FEHD advised that LandsD had set up a working group which included representatives from the Department of Justice to study how to better control the problem of illegal occupation of the Government Land by food premises, including repeat offenders. At the request of Mr Alan LEONG, AD(Ops)1/FEHD undertook to provide information on follow-up actions taken by LandsD.

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Proposed simplification of the appeal mechanism

50. Pointing out that some restaurant operators occupied areas beyond the confines of their premises as a way to save rental, Miss Alice MAK expressed support for the Administration's suggestion of speeding up the execution of licence suspension and cancellation. Expressing grave concern that some licensees might take advantage of the lengthy appeal process under the current three-tier appeal mechanism to defer the effective date of licence suspension or cancellation, Miss MAK supported the Administration's consideration of simplifying the procedures for licence suspension and/or cancellation.

51. USFH advised that in the Ombudsman's report the current three-tier appeal mechanism was considered too cumbersome. FEHD had been considering the merits of simplifying the current three-tier appeal mechanism, which included FEHD, the Licensing Appeals Board ("LIAB") and the Municipal Services Appeals Board ("MSAB"). Its initial assessment was that it would be more practical to remove MSAB and retain LIAB since the vast majority of FEHD's original decisions on licence suspension or cancellation cases and decisions of LIAB on these cases were upheld by MSAB. The Administration considered that this proposed simplification would streamline the process without unduly undermining licensees' right of appeal.

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52. Mr WONG Yuk-man said that any amendments on the appeal mechanism should only be made after sufficient consultation with the trade. Mr Alan LEONG and Dr KWOK Ka-kei asked whether the Administration had set a timetable for launching public consultation on the proposed change of the appeal mechanism. Mr LEONG urged the Administration to expedite its work on introducing amendments to the relevant legislation so that the problems of illegal extension of business area and street obstruction by restaurants could be combated more effectively. In response, USFH said that FEHD would proceed to consult the trade shortly after receiving members' views at this Panel meeting, and would revert to the Panel when the drafting of the legislative proposal was ready.

Outside seating accommodation ("OSA")

53. Pointing out that the extension of business area by restaurants had been an unresolved issue for many years, Mr WONG Yuk-man, Mr Michael Tien, Mr CHAN Chi-chuen and Miss Alice MAK urged the Administration to strike a proper balance between effective control on illegal extension of business area by restaurants and facilitation of applications by restaurant licensees for OSA. Expressing concern that cooked food stalls (commonly known as "Tai Pai Dong") with traditional characteristics were decreasing in number amid the proliferation of fast food chain stores, Mr WONG urged the Administration to consider how to better meet consumers' demand for outside seating, which had been consistently large after smoking in indoor areas of food premises was banned. Noting that FEHD had approved 313 applications for OSA between 2002 and December 2013, Mr WONG questioned whether these 313 applications were mostly made by chain stores. He requested the Administration to provide a breakdown (by type of business) of these 313 applications.

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54. Pointing out that high rental might be the reason for some small-scale food premises to illegally extend their business areas, Miss Alice MAK urged the Administration to find more suitable spots for OSA of restaurants. In response, USFH advised that following the release of the Ombudsman's report, FEHD had consulted District Councils ("DCs") concerned regarding proposals to designate spots for alfresco dining in suitable areas in 13 districts where the problem of illegal extension of business area by food premises existed. While all these DCs supported FEHD's enhanced enforcement measures, most of them indicated that there were no suitable spots for alfresco dining in their districts.

55. Noting that OSA was becoming more popular and could be a tourist attraction, Mr Michael TIEN urged the Administration to adopt a more flexible approach in taking enforcement actions such that restaurants could carry on with their business as long as the problems of noise and obstruction

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were not serious. Noting that the Home Affairs Department ("HAD") had launched a public consultation on the enhanced measures against shop front extensions, Mr TIEN said that the introduction of a fixed penalty system with a maximum penalty of \$30,000 each day would provide adequate deterrent effect. He also suggested that the Administration should consider taking a more flexible approach in handling the issue of extension of business area by restaurants, for example, not taking enforcement actions if not more than one third of the pavement concerned was blocked.

56. Mr CHAN Chi-chuen noted that one of the recommendations made in the Ombudsman's report was that FEHD should deliberate with HAD on how to balance stakeholders' interests with regard to setting up OSA. He suggested that upon issuing a warning letter to the operator of food premises and/or suspending the licence of food premises, FEHD should consider liaising with the restaurant operator concerned and residents nearby with a view that the two parties could reach an agreement such that the restaurant concerned would keep nuisances at a level tolerable by residents.

57. Miss Alice MAK suggested that deputations should be invited to give views on the subject in a future meeting for members to further discuss the issue. The Chairman said that the Panel would consider how to take forward the suggestion at a later time.

(Post-meeting note: at the meeting on 10 June 2014, members agreed that the Panel would invite deputations to give views on the subject when it would be discussed at future meetings.)

VIII. Any other business

58. The Chairman reminded members that the Panel would conduct a duty visit to the CSW Wholesale Vegetable Market and CSW Temporary Wholesale Poultry Market on 27 May 2014, and both Panel members and non-Panel members would be invited to join the visit.

59. There being no other business, the meeting ended at 4:32 pm.